

**REGULATED SALES****Sec. 20-1. Permit required.**

No person shall advertise, represent or hold out that any sale of goods, wares, or merchandise, or a sale of any department of goods, wares and merchandise, is an insurance, bankruptcy, liquidation, mortgage, insolvent's, assignee's, executor's, administrator's, receiver's, or trustee's, or any closing-out sale, or removal, or a sale of goods, wares, or merchandise damaged by fire, smoke or water, or a sale of goods from the stock of a bankrupt, receiver, trustee, insurance company, receivership, or trusteeship, and no person shall advertise, represent or hold out that any sale of goods, wares or merchandise, or a sale of any department of goods, wares or merchandise, is anticipatory to, or to avoid the termination, closing, liquidating, revision, winding up, discontinuance, conclusion or abandonment of the business in connection with such sale, and no person shall advertise or make any representation in any such manner as reasonably to convey to the public the belief that upon the disposal of any such stock of goods on hand the business will cease and be discontinued, including, but not limited to, sales advertised, held out or represented as "auction sales," "adjuster's sales," "adjustment sale," "administrator's sale," "alteration sale," "assignee's sale," "bankrupt sale," "benefit of administrator's sale," "benefit of trustee's sale," "building coming down sale," "closing sale," "closing-out sale," "damaged goods sale," "end sale," "executor's sale," "final days' sale," "fire sale," "forced out of business sale," "forced out sale," "insolvent sale," "last days' sale," "lease expires sale," "liquidation sale," "loss of lease sale," "mortgage sale," "receiver's sale," "removal sale," "reorganization sale," "salvage sale," "smoke sale," "smoke and water sale," "trustee's sale," "quitting business sale," "wholesale cleaning out sale," and also including but not limited to, sales the advertisement of which contains the word "creditor" or "creditors," unless he shall first obtain a permit to conduct such a sale from the city manager. (Code 1961, § 21.1)

Supp. No. 1

**Sec. 20-2. Permit and application required.**

Any person desiring to hold regulated sales under this chapter must first obtain a regulated sale permit. Application for such a permit shall be made to the city manager, and shall be accompanied by applicant's written, verified affidavit stating that the facts set forth in the application and the accompanying inventory or statement are true and correct. Such application shall also set forth:

- (a) The location of the proposed sale.
- (b) Nature of occupancy showing length of term of lease, if any.
- (c) Reason for proposed sale.
- (d) Dates upon, or during which, proposed sale is to be conducted.
- (e) The number and date of a valid business license issued by the city to applicant.
- (f) Any other facts or statements required by the city manager. (Code 1961, § 21.3)

**Sec. 20-3. Statement, fee to accompany permit application.**

The application for a regulated sales permit under this chapter shall be accompanied by the following:

- (a) A full, true and correct inventory or statement itemizing in detail the amount and description of the goods, wares, merchandise and personal property to be sold at such sale, together with the proposed selling price of each item.
- (b) The required license fee shall be the sum of fifty dollars (\$50.00). (Code 1961, § 21.4; Ord. No. 571, § 1, 4-26-76)

**Sec. 20-4. Scope of permit.**

The regulated sales permit shall authorize the conduct for the respective sales therein

licensed upon the days listed in the application. (Code 1961, § 21.5)

**Sec. 20-5. Refusal to issue permit for addition of stock prior to sale.**

In the event that the city manager shall have determined that any unusual purchases or additions to the stock of goods, wares or merchandise, for which the application has been filed, have been made within sixty (60) days prior to filing such application, the city clerk shall refuse to issue the permit provided for in this chapter. (Code 1961, § 21.6)

**Sec. 20-6. Referral, report on application for permit.**

The city clerk shall not grant a permit hereunder until the application therefor shall have been referred to the chief of police for his investigation and report thereon, and until he shall have approved it, in writing. (Code 1961, § 21.7)

**Sec. 20-7. Endorsement of date of application.**

The city clerk shall endorse on a regulated sales permit application the date of its filing and shall preserve it for record in his office. (Code 1961, § 21.8)

**Sec. 20-8. Permit duration, renewal.**

Except as otherwise in this chapter provided, all regulated sales made pursuant to the permit provided for in section 20-2 must be made within the period of thirty (30) calendar days including and following the first day of sale specified in the permit. If the sale is not completed within the thirty (30) calendar-day period, the permittee shall have the privilege of renewing the permit for an additional period of thirty (30) calendar days immediately following the first thirty (30) day period upon the payment of an additional fee, which shall be one-half of the original fee paid for such regulated sale permit; provided, that application for renewal shall be made to the city manager and the fee deposited with him prior to the expiration of the first thirty (30) calendar day period; provided further, that no permit shall be renewed so that any regulated sale under this chapter shall continue for a period of more than sixty (60) calendar days. (Code 1961, § 21.9)

**Sec. 20-9. Limitation on permits for same premises within ninety days.**

No permit for conducting a regulated sale shall be issued to the same applicant, or for any portion of the same stock of goods, or for use upon any portion of the same premises, within ninety (90) days after expiration of the period covered by a prior regulated sale permit. (Code 1961, § 21.10)

**Sec. 20-10. Investigations authorized.**

The chief of police, or any other city official designated by the city manager, shall, at all times, have the power, and it shall be his duty, to make examination and investigation of the business and books, records and accounts, and other documents pertaining thereto, of any person conducting or theretofore permitted or authorized to conduct "regulated sales," which term is hereby adopted as the designation of any sale described in and regulated elsewhere in this chapter. (Code 1961, § 21.2)

**Sec. 20-11. Removing goods described in application.**

The permit provided for in section 20-2 shall be valid only for a sale of the goods, wares and merchandise inventoried and described in the application for such permit, in the manner and at the time and place set forth in such application. Any removal of such goods, wares or merchandise, so inventoried and described, from the place of sale described in such application, shall cause such goods, wares and merchandise to lose their identity for the purpose of such regulated sale, and no permit will thereafter be issued for the conduct of a sale of such goods, wares or merchandise so removed from the place described in such application, under the provisions of section 20-2, at any other place. (Code 1961, § 21.11)

**Sec. 20-12. Adding to merchandise.**

No person in contemplation of the conduct of a regulated sale under a permit as provided in section 20-2 shall add any goods, wares or merchandise to the inventory filed with the application provided for in such section for the purpose of selling or disposing of the same at such sale.

It shall be unlawful for any person conducting a regulated sale hereunder, under any permit granted pursuant to section 20-2, to add, during the continuance of any such regulated sale, any goods, wares or merchandise described and inventoried in his original application for such permit, and no goods, wares or merchandise shall be sold at or during such sale, excepting the goods, wares or merchandise described in the inventory accompanying the application, and each and every addition of goods, wares or merchandise for the purpose of sale, to the stock of goods, wares, or merchandise described in the inventory, and each sale of such goods, wares, or merchandise as were not described in such inventory, shall constitute a separate offense hereunder. (Code 1961, § 21.12)

#### **Sec. 20-13. Permit revocation.**

The permit issued under section 20-2 to any person who shall hold, conduct or carry on any sale of goods, wares or merchandise, contrary to the provisions of this chapter, or whose advertising, statement, representation or assertion is false or untrue in any respect, or which by the exercise of reasonable care should be known to be false or untrue, deceptive, or misleading, or which shall violate the provisions of this chapter, shall be forthwith revoked by the city manager on his determining that such provisions, or any thereof, or any portion thereof, have been violated, and such person shall be guilty of a misdemeanor. In the event the order for such revocation is reversed on appeal pursuant to section 20-14, the time during which any sale is suspended pursuant to such revocation shall not be counted in calculating the number of days during which the permit for such sale shall be effective. (Code 1961, § 21.13)

#### **Sec. 20-14. Appeals.**

Any person to whom a permit has been issued under section 20-2, or to whom such a permit has been denied, or any person whose permit has been revoked by the city manager, may appeal in writing to the city council within five (5) days after any such action by an administrative officer of this city. The city clerk shall forthwith set such appeal for hearing before the city council at the next

meeting thereof at least five (5) days after the filing of such notice of appeal. The city clerk shall also give notice of the time and place of hearing such appeal to the applicant or licensee at least five (5) days before the date thereof. At such hearing the applicant or licensee shall appear and may offer evidence in support of his application or other contention and the city council shall have power to confirm, modify or correct the determination of the city manager in any respect, and, if a proper showing is made to entitle the applicant to any relief from any prior order denying an application or revoking a license, the council shall determine the proper fee to be charged and shall forthwith give written notice to the licensee in the manner herein provided for notice of hearing. Notice as herein provided shall be in writing either by delivery to the applicant or licensee or by transmission of such notice by United States Postal Service, postage prepaid, to the address given in the application for a permit. (Code 1961, § 21.14)

#### **Sec. 20-15. Council's decision to be final.**

The decision of the council in any review pursuant to section 20-14 shall be final and conclusive upon any and all persons affected thereby. Any fee finally determined shall be due and payable forthwith in the amount specified, upon giving the required notice. (Code 1961, § 21.15)

#### **Sec. 20-16. Exemptions.**

No permit fee need be paid, and the provisions of this chapter shall not be applicable to the selling at auction or public sale of any goods, wares, merchandise or property belonging to the United States of America, or the State of California, or the County of San Mateo, or the City of Belmont, or any other governmental agency, or to any sale conducted under or by virtue of, or pursuant to the authority of, any process issued out of, or by any duly constituted city, county, state or federal court, authority, or body, or to the bona fide sale of the household goods, livestock or farm implements of the owner thereof at the domicile of such owner, or any assets of the estate of a decedent, or incompetent, or the sale by the owner thereof

of real property upon which his home, dwelling or business is located, or of household furniture, fixtures or articles owned by him and located within, or upon the real property upon which his home or dwelling is situated, or to the sale of any livestock at auction when conducted on the premises included within any racing enclosure which has been licensed under the provisions of any California horseracing act. (Code 1961, § 21.16)

**Sec. 20-17. Sale not covered by ordinary business license.**

No license granted and in effect pursuant to any provision of the business license regulations of this city, other than those applying to regulated sales, shall be effective for a

regulated sale, and no regulated sale may be conducted pursuant to any license other than that granted for the purpose of such regulated sale. (Code 1961, § 21.17)

**Sec. 20-18. Publishers of advertisements not liable.**

Nothing contained in this chapter shall be determined to apply to the publisher of a newspaper, magazine, or other publication who publishes any advertisement in good faith without the knowledge of its falseness, deceptiveness, or misleading character, or without knowledge that the provisions of such sections, or any thereof, or any portions thereof, have not been complied with. (Code 1961, § 21.18)

[The next page is 1103]